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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,139	12/29/2000	William E. La Macchia	002092-0208	8419
20572	7590	11/22/2005	EXAMINER	
GODFREY & KAHN S.C. 780 NORTH WATER STREET MILWAUKEE, WI 53202			DIXON, THOMAS A	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/752,139

Applicant(s)

LA MACCHIA ET AL.

Examiner

Thomas A. Dixon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 9-11, 16, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 9-11, 16, 18-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The request filed on 9/12/05 for Continued Examination (RCE) based on parent Application No. 09/752,139 is acceptable and an RCE has been established. An action on the RCE follows.

2. This is an RCE based on applicant's Application No. 09/752,139. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

3. Claims 3-8, 12-15, 17, and 20 have been cancelled. Applicant's amendments and arguments have been considered, but are not persuasive.

4. Applicant's amendment and arguments are that Lynch et al ('094) does not disclose the database as part of the system, examiner disagrees.

Applicant is pointed to column 2, lines 5-13 in which the system acquires information from a plurality of databases and stores the information in a database.

5. Claims Directed to an Apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987). Thus the structural limitations of claims 1-3, including a database, an interface or a component bundler (processor) are disclosed in LeasureShopper, Tagawa, Jafri et al and Lynch et al as described herein are capable of performing the functions recited.

Also as described the limitations of the claim do not distinguish the claimed apparatus from the prior art. The "wherein" clause is given no weight, however, computer instructions explicitly executed by the apparatus would have to be given weight.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by

LeasureShopper.

As per Claims 1.

LeasureShopper disclose:

providing a bulk inventory database containing inventory information, rate database and travel product information as part of an inventory and rate management system, see references to airline databases Apollo, Sabre, room databases and product information (8-1);

an interface between the travel product inventory and rate management system and a vacation package seller and the inventory and rate management system, see references to booking, or a component bundler selectively choosing and bundling at least two of the plurality of individual travel products into a vacation package, see references to departure and return flights.

7. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Jafri et al (5,832,454).

As per Claims 1-3.

Jafri et al discloses a database, see figure 2, an interface, see PC, and a component bundler, see figure 1 PC.

8. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Tagawa (WO 97/17680).

As per Claims 1-3.

Tagawa discloses a database see figure 2c 128, and an interface, see 110 and a component bundler, see 112.

9. Claims 1, 9-11, 16, 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lynch et al (6,119,094).

As per Claims 1.

Lynch et al (094) discloses:

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database containing inventory information, rate database and travel product information as part of an inventory and rate management system, see figure 1 (inventory data structure);

an interface between the travel product inventory and rate management system and a vacation package seller and the inventory and rate management system, see column 8, lines 56-65 or a component bundler, see figure 1 (set of low-priced alternatives).

As per Claim 9.

Lynch et al (094) discloses:

providing a bulk inventory and rate database as part of an inventory and rate management system, see figure 1 (inventory data structure) and column 2, lines 6-13;

loading the bulk inventory and rate database with inventory and rate information for a plurality of individual travel products provided by a plurality of travel suppliers, see figure 3 (108), column 2, lines 6-13 and column 4, lines 46-61;

selectively choosing and bundling at least two of the plurality of individual travel products into a vacation package, see figure 1 (set of low priced alternatives), and column 4, line 42 – column 5, line 6;

selecting the vacation package through an interface between the vacation package seller and the inventory and rate management system, see column 8, lines 59-65; and

wherein the travel inventory and rate information contained in the bulk inventory and rate database includes rules from the travel product suppliers regarding availability and pricing the permit the travel product inventory and rate management system to allocate inventory and determine pricing for individual products, see column 6, lines 31–35.

As per Claim 10, 18.

Lynch et al (094) further discloses the bundling is performed by a dynamic component at the time when the vacation package seller performs the step of selecting the vacation package, see column 7, line 8 – column 8, line 65.

As per Claims 3, 11, 19.

Lynch et al (094) further discloses the bundling is performed prior to the time when the vacation package seller performs the step of selecting the vacation package, see column 1, lines 22-34.

As per Claim 16.

Lynch et al (094) discloses:

providing a bulk inventory, travel product information and rate database as part of an inventory and rate management system, see figure 1 (inventory data structure) and column 2, lines 6-13;

combining at least two of the plurality of individual travel products into a vacation package, see figure 1 (set of low-priced alternatives);

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selectively assessing the vacation package through an interface between a vacation package seller and the inventory and rate management system, see column 8, lines 56-65;

loading the bulk inventory and rate database with inventory and rate information related to the travel products supplied by each of the plurality of travel product suppliers, wherein the inventory and rate information contained in the bulk inventory and rate database includes rules from the travel product suppliers regarding availability and pricing that permit the travel product and rate inventory management system to allocate inventory and determine pricing for individual travel products, see figure 3 (108), column 2, lines 6-13, and column 4, lines 46-61; and

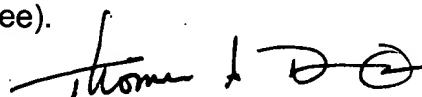
reserving the vacation package through the interface to the inventory and rate management system, see column 8, lines 59-65.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (571) 272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas A. Dixon
Primary Examiner